

SENATE BILL 786

N1

2lr2788
CF HB 1288

By: **Senators Muse and Ramirez**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings and Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 1, 2012

CHAPTER _____

1 AN ACT concerning

2 ~~**Foreclosure Prevention and Neighborhood Stabilization Act of 2012**~~

3 **Real Property – Foreclosures and Mediation**

4 FOR the purpose of ~~requiring a secured party to file a certain request for foreclosure~~
5 ~~mediation; repealing a certain provision of law providing for a waiver of a~~
6 ~~certain filing fee; repealing a certain provision of law requiring a copy of a~~
7 ~~certain request to be mailed to a certain person; requiring the court to stay~~
8 ~~foreclosure proceedings until the conclusion of foreclosure mediation under~~
9 ~~certain circumstances; repealing a certain provision authorizing the secured~~
10 ~~party to file a motion to strike a certain request; authorizing the mortgagor or~~
11 ~~grantor to waive the right to participate in foreclosure mediation in a certain~~
12 ~~manner; requiring the court to appoint a mediator with certain qualifications;~~
13 ~~requiring the parties to split the cost of foreclosure mediation; requiring a~~
14 ~~certain mediator to be paid a certain fee; authorizing the court to extend the~~
15 ~~time for completing the foreclosure mediation under certain circumstances;~~
16 ~~limiting the period for which an extension may be granted under certain~~
17 ~~circumstances; requiring a certain notice including certain information to be~~
18 ~~sent to certain parties; requiring certain parties to provide certain information~~
19 ~~and documents; requiring certain parties to be present at the foreclosure~~
20 ~~mediation; authorizing a foreclosure mediation to be conducted in a certain~~
21 ~~manner; authorizing the mediator to schedule more than one mediation session;~~
22 ~~requiring the mediator to address certain issues during the foreclosure~~
23 ~~mediation; requiring certain parties to negotiate in good faith; authorizing a~~
24 ~~mediator to take certain actions if the mediator determines that any party is not~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~acting in good faith; requiring the Department of Housing and Community Development to establish and maintain a Foreclosed Property Registry; requiring a certain person to register certain residential property with the registry; requiring the registration to include certain information; requiring a certain person to notify the registry of a certain purchase at a foreclosure sale; establishing a penalty for a violation of certain provisions of this Act; establishing a certain tax credit for the purchase of residential property in a certain community; defining a certain term; altering a certain definition; making conforming changes; and generally relating to foreclosure mediation, a registry for foreclosed property, and tax credits for homes in foreclosure hotspots~~
establishing a certain prefile mediation process between a secured party and a mortgagor or grantor before the commencement of a certain foreclosure action under certain circumstances; providing that a certain mortgagor or grantor is not entitled to participate in a certain postfile mediation except under certain circumstances; establishing certain procedures and notices for participation in a certain prefile mediation; altering certain procedures relating to foreclosure and postfile mediation; providing that certain provisions of law applicable to foreclosures and certain mediation processes do not apply to certain foreclosure actions on certain property if a certain certificate is issued under certain circumstances; requiring a county or municipal corporation to issue to a secured party a certificate of vacancy or certificate of property unfit for human habitation for certain residential properties under certain circumstances; authorizing a record owner or occupant of residential property to challenge a certain certificate under certain circumstances; authorizing a county or municipal corporation to charge a certain fee to issue a certain certificate; requiring and authorizing the Commissioner of Financial Regulation to adopt certain regulations; defining certain terms; making conforming changes; allowing a subtraction modification under the Maryland income tax for income resulting from a foreclosure settlement negotiated by the Attorney General; providing for the validity, under certain circumstances, of a certain order to docket or complaint to foreclose served on a mortgagor or grantor before the effective date of certain regulations; requiring the Commissioner of Financial Regulation to develop a certain description of a certain procedure and a certain form to be served under a certain provision of law; providing for the application of certain provisions of this Act; and generally relating to mortgage foreclosures and mediation.

37 BY repealing and reenacting, with amendments,
 38 Article – Real Property
 39 Section 7–105.1
 40 Annotated Code of Maryland
 41 (2010 Replacement Volume and 2011 Supplement)

42 BY adding to
 43 Article – Real Property
 44 Section ~~14–126(d)~~ 7–105.11
 45 Annotated Code of Maryland

1 (2010 Replacement Volume and 2011 Supplement)

2 BY repealing and reenacting, without amendments,
3 Article – Tax – General
4 Section 10–208(a)
5 Annotated Code of Maryland
6 (2010 Replacement Volume and 2011 Supplement)

7 BY adding to
8 Article – Tax – Property
9 Section ~~9–110~~ 10–208(r)
10 Annotated Code of Maryland
11 (2007 Replacement Volume and 2011 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Real Property**

15 7–105.1.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) “Final loss mitigation affidavit” means an affidavit that:

18 (i) Is made by a person authorized to act on behalf of a secured
19 party of a mortgage or deed of trust on owner–occupied residential property that is the
20 subject of a foreclosure action;

21 (ii) Certifies the completion of the final determination of loss
22 mitigation analysis in connection with the mortgage or deed of trust; and

23 (iii) If denied, provides an explanation for the denial of a loan
24 modification or other loss mitigation.

25 (3) “Foreclosure mediation” means a conference at which the parties in
26 a foreclosure action, their attorneys, additional representatives of the parties, or a
27 combination of those persons appear before an impartial individual to discuss the
28 positions of the parties in an attempt to reach agreement on a loss mitigation program
29 for the mortgagor or grantor.

30 (4) “Housing counseling services” means assistance provided to
31 mortgagors or grantors by nonprofit and governmental entities that are identified on a
32 list maintained by the Department of Housing and Community Development.

33 (5) “Loss mitigation analysis” means an evaluation of the facts and
34 circumstances of a loan secured by owner–occupied residential property to determine:

1 (i) Whether a mortgagor or grantor qualifies for a loan
2 modification; and

3 (ii) If there will be no loan modification, whether any other loss
4 mitigation program may be made available to the mortgagor or grantor.

5 (6) “Loss mitigation program” means an option in connection with a
6 loan secured by owner–occupied residential property that:

7 (i) Avoids foreclosure through loan modification or other
8 changes to existing loan terms that are intended to allow the mortgagor or grantor to
9 stay in the property;

10 (ii) Avoids foreclosure through a short sale, deed in lieu of
11 foreclosure, or other alternative that is intended to simplify the mortgagor’s or
12 grantor’s relinquishment of ownership of the property; or

13 (iii) Lessens the harmful impact of foreclosure on the mortgagor
14 or grantor.

15 (7) “Owner–occupied residential property” means residential property
16 in which at least one unit is occupied by an individual who:

17 (i) Has an ownership interest in the property; and

18 (ii) Uses the property as the individual’s primary residence.

19 (8) **“POSTFILE MEDIATION” MEANS FORECLOSURE MEDIATION**
20 **THAT OCCURS IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION AFTER**
21 **THE DATE ON WHICH THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE IS**
22 **FILED.**

23 (9) **“PREFILE MEDIATION” MEANS FORECLOSURE MEDIATION**
24 **THAT OCCURS IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION BEFORE**
25 **THE DATE ON WHICH THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE IS**
26 **FILED.**

27 [(8)] (10) “Preliminary loss mitigation affidavit” means an affidavit
28 that:

29 (i) Is made by a person authorized to act on behalf of a secured
30 party of a mortgage or deed of trust on owner–occupied residential property that is the
31 subject of a foreclosure action;

1 (ii) Certifies the status of an incomplete loss mitigation analysis
2 in connection with the mortgage or deed of trust; and

3 (iii) Includes reasons why the loss mitigation analysis is
4 incomplete.

5 **[(9) (11)** “Residential property” means real property improved by four
6 or fewer single family dwelling units that are designed principally and are intended
7 for human habitation.

8 (b) (1) Except as provided in paragraph (2) of this subsection, an action to
9 foreclose a mortgage or deed of trust on residential property may not be filed until the
10 later of:

11 (i) 90 days after a default in a condition on which the mortgage
12 or deed of trust provides that a sale may be made; or

13 (ii) 45 days after the notice of intent to foreclose required under
14 subsection (c) of this section is sent.

15 (2) (i) The secured party may petition the circuit court for leave to
16 immediately commence an action to foreclose the mortgage or deed of trust if:

17 1. The loan secured by the mortgage or deed of trust was
18 obtained by fraud or deception;

19 2. No payments have ever been made on the loan
20 secured by the mortgage or deed of trust;

21 3. The property subject to the mortgage or deed of trust
22 has been destroyed; or

23 4. The default occurred after the stay has been lifted in a
24 bankruptcy proceeding.

25 (ii) The court may rule on the petition with or without a
26 hearing.

27 (iii) If the petition is granted, the action may be filed at any time
28 after a default in a condition on which the mortgage or deed of trust provides that a
29 sale may be made and the secured party need not send the written notice of intent to
30 foreclose required under subsection (c) of this section.

31 (c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least
32 45 days before the filing of an action to foreclose a mortgage or deed of trust on
33 residential property, the secured party shall send a written notice of intent to foreclose
34 to the mortgagor or grantor and the record owner.

1 (2) The notice of intent to foreclose shall be sent:

2 (i) By certified mail, postage prepaid, return receipt requested,
3 bearing a postmark from the United States Postal Service; and

4 (ii) By first-class mail.

5 (3) A copy of the notice of intent to foreclose shall be sent to the
6 Commissioner of Financial Regulation.

7 (4) The notice of intent to foreclose shall:

8 (i) Be in the form that the Commissioner of Financial
9 Regulation prescribes by regulation; and

10 (ii) Contain:

11 1. The name and telephone number of:

12 A. The secured party;

13 B. The mortgage servicer, if applicable; and

14 C. An agent of the secured party who is authorized to
15 modify the terms of the mortgage loan;

16 2. The name and license number of the Maryland
17 mortgage lender and mortgage originator, if applicable;

18 3. The amount required to cure the default and reinstate
19 the loan, including all past due payments, penalties, and fees;

20 4. A statement recommending that the mortgagor or
21 grantor seek housing counseling services;

22 5. The telephone number and the Internet address of
23 nonprofit and government resources available to assist mortgagors and grantors facing
24 foreclosure, as identified by the Commissioner of Financial Regulation;

25 6. An explanation of the Maryland foreclosure process
26 and time line, as prescribed by the Commissioner of Financial Regulation; and

27 7. Any other information that the Commissioner of
28 Financial Regulation requires by regulation.

1 (5) For an owner-occupied residential property, the notice of intent to
2 foreclose shall be accompanied by:

3 (i) A loss mitigation application:

4 1. For loss mitigation programs that are applicable to
5 the loan secured by the mortgage or deed of trust that is the subject of the foreclosure
6 action; or

7 2. If the secured party does not have its own loss
8 mitigation application, in the form prescribed by the Commissioner of Financial
9 Regulation;

10 (ii) Instructions for completing the loss mitigation application
11 and a telephone number to call to confirm receipt of the application;

12 (iii) A description of the eligibility requirements for the loss
13 mitigation programs offered by the secured party that may be applicable to the loan
14 secured by the mortgage or deed of trust that is the subject of the foreclosure action;
15 [and]

16 (iv) An envelope addressed to the person responsible for
17 conducting loss mitigation analysis on behalf of the secured party for the loan secured
18 by the mortgage or deed of trust that is the subject of the foreclosure action;

19 (v) **IF THE SECURED PARTY OFFERS PREFILE MEDIATION, A**
20 **NOTICE IN THE FORM THAT THE COMMISSIONER OF FINANCIAL REGULATION**
21 **PRESCRIBES BY REGULATION THAT STATES THAT:**

22 1. **THE SECURED PARTY OFFERS PREFILE**
23 **MEDIATION;**

24 2. **THE MORTGAGOR OR GRANTOR MAY ELECT TO**
25 **PARTICIPATE IN PREFILE MEDIATION;**

26 3. **THE MORTGAGOR OR GRANTOR WILL NOT BE**
27 **ENTITLED TO POSTFILE MEDIATION IF THE MORTGAGOR OR GRANTOR**
28 **PARTICIPATES IN PREFILE MEDIATION, EXCEPT AS OTHERWISE PROVIDED IN A**
29 **PREFILE MEDIATION AGREEMENT;**

30 4. **THE MORTGAGOR OR GRANTOR IS REQUIRED TO**
31 **PARTICIPATE IN HOUSING COUNSELING SERVICES AS A PRECONDITION TO**
32 **PREFILE MEDIATION; AND**

33 5. **A FEE WILL BE CHARGED FOR THE PREFILE**
34 **MEDIATION AND THE AMOUNT OF THE FEE; AND**

1 **(VI) IF THE SECURED PARTY OFFERS PREFILE MEDIATION,**
2 **AN APPLICATION TO PARTICIPATE IN PREFILE MEDIATION AND INSTRUCTIONS**
3 **TO COMPLETE AND SUBMIT THE APPLICATION, ALL IN THE FORM THAT THE**
4 **COMMISSIONER OF FINANCIAL REGULATION PRESCRIBES BY REGULATION.**

5 **(6) For a property that is not an owner-occupied residential property,**
6 **the notice of intent to foreclose shall be accompanied by:**

7 **(i) A written notice of the determination that the property is**
8 **not owner-occupied residential property; and**

9 **(ii) A telephone number to call to contest that determination.**

10 **(D) (1) FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY, A SECURED**
11 **PARTY MAY OFFER TO PARTICIPATE IN PREFILE MEDIATION WITH A**
12 **MORTGAGOR OR GRANTOR TO WHOM THE SECURED PARTY HAS DELIVERED A**
13 **NOTICE OF INTENT TO FORECLOSE.**

14 **(2) IF OFFERED BY A SECURED PARTY, A MORTGAGOR OR**
15 **GRANTOR MAY ELECT TO PARTICIPATE IN PREFILE MEDIATION.**

16 **(3) IF A MORTGAGOR OR GRANTOR ELECTS TO PARTICIPATE IN**
17 **PREFILE MEDIATION, THE MORTGAGOR OR GRANTOR SHALL NOTIFY THE**
18 **SECURED PARTY BY SUBMITTING THE APPLICATION DESCRIBED IN SUBSECTION**
19 **(C)(5)(VI) OF THIS SECTION NOT MORE THAN 25 DAYS AFTER THE DATE ON**
20 **WHICH THE NOTICE OF INTENT TO FORECLOSE IS MAILED BY THE SECURED**
21 **PARTY.**

22 **(4) (I) AS A PRECONDITION TO PREFILE MEDIATION, A**
23 **MORTGAGOR OR GRANTOR SHALL PARTICIPATE IN HOUSING COUNSELING**
24 **SERVICES.**

25 **(II) THE DEPARTMENT OF HOUSING AND COMMUNITY**
26 **DEVELOPMENT SHALL PRESCRIBE THE TIMING AND FORM OF CERTIFICATION**
27 **OF PARTICIPATION IN HOUSING COUNSELING SERVICES.**

28 **(5) IF A MORTGAGOR OR GRANTOR SUBMITS AN APPLICATION TO**
29 **PARTICIPATE IN PREFILE MEDIATION TO THE SECURED PARTY IN ACCORDANCE**
30 **WITH PARAGRAPH (3) OF THIS SUBSECTION, THE SECURED PARTY SHALL**
31 **NOTIFY THE OFFICE OF ADMINISTRATIVE HEARINGS NOT MORE THAN 5**
32 **BUSINESS DAYS AFTER THE DATE ON WHICH THE SECURED PARTY RECEIVES**
33 **THE APPLICATION.**

34 **(6) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL:**

1 **(I) SCHEDULE A PREFILE MEDIATION SESSION NOT MORE**
2 **THAN 60 DAYS AFTER THE DAY ON WHICH IT RECEIVES NOTICE BY A SECURED**
3 **PARTY OF AN ELECTION TO PARTICIPATE IN PREFILE MEDIATION; AND**

4 **(II) NOTIFY THE PARTIES AND THEIR ATTORNEYS, IF ANY,**
5 **OF THE DATE OF THE PREFILE MEDIATION SESSION.**

6 **(7) BY REGULATION, THE COMMISSIONER OF FINANCIAL**
7 **REGULATION SHALL:**

8 **(I) ESTABLISH THE FEE FOR PREFILE MEDIATION; AND**

9 **(II) PRESCRIBE THE FORM AND CONTENT OF THE NOTICE**
10 **ABOUT PREFILE MEDIATION, THE APPLICATION TO PARTICIPATE IN PREFILE**
11 **MEDIATION, AND INSTRUCTIONS TO COMPLETE THE APPLICATION.**

12 **(8) (I) NOTWITHSTANDING SUBSECTION (B)(1) OF THIS**
13 **SECTION, IF THE SECURED PARTY AND GRANTOR OR MORTGAGOR ELECT TO**
14 **PARTICIPATE IN PREFILE MEDIATION, AN ORDER TO DOCKET OR COMPLAINT TO**
15 **FORECLOSE MAY NOT BE FILED UNTIL THE COMPLETION OF PREFILE**
16 **MEDIATION IN ACCORDANCE WITH THIS SECTION.**

17 **(II) THE DATE THAT PREFILE MEDIATION IS COMPLETED IS**
18 **THE DATE THAT THE OFFICE OF ADMINISTRATIVE HEARINGS ISSUES THE**
19 **REPORT DESCRIBING THE RESULTS OF THE PREFILE MEDIATION.**

20 **(9) THE FEE FOR PREFILE MEDIATION COLLECTED UNDER THIS**
21 **SUBSECTION SHALL BE DISTRIBUTED TO THE HOUSING COUNSELING AND**
22 **FORECLOSURE MEDIATION FUND ESTABLISHED UNDER § 4-507 OF THE**
23 **HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.**

24 **(10) BY REGULATION, THE COMMISSIONER OF FINANCIAL**
25 **REGULATION SHALL ESTABLISH A MEDIATION CHECKLIST THAT DESCRIBES**
26 **THE MATTERS THAT SHALL BE REVIEWED AND CONSIDERED IN A PREFILE**
27 **MEDIATION.**

28 **(11) (I) AT THE COMMENCEMENT OF A PREFILE MEDIATION**
29 **SESSION, EACH PARTY SHALL REVIEW THE MEDIATION CHECKLIST.**

30 **(II) THE MEDIATOR SHALL MARK EACH ITEM ON THE**
31 **MEDIATION CHECKLIST AS THE ITEM IS ADDRESSED AT THE PREFILE**
32 **MEDIATION SESSION.**

1 (III) AT THE CONCLUSION OF A PREFILE MEDIATION
2 SESSION, EACH PARTY SHALL SIGN THE MEDIATION CHECKLIST.

3 (12) IF THE PREFILE MEDIATION RESULTS IN AN AGREEMENT, THE
4 PARTIES SHALL EXECUTE A PREFILE MEDIATION AGREEMENT.

5 (13) IN ADDITION TO DESCRIBING THE TERMS OF THE AGREEMENT
6 AMONG THE PARTIES, THE PREFILE MEDIATION AGREEMENT SHALL, IN
7 14 POINT, BOLD FONT:

8 (I) DESIGNATE THE PERSON AND ADDRESS TO WHOM THE
9 MORTGAGOR OR GRANTOR MAY PROVIDE NOTICE OF A CHANGE OF FINANCIAL
10 CIRCUMSTANCES; AND

11 (II) STATE THAT THE MORTGAGOR OR GRANTOR IS NOT
12 ENTITLED TO POSTFILE MEDIATION UNLESS OTHERWISE AGREED BY THE
13 PARTIES.

14 (14) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL DRAFT
15 THE PREFILE MEDIATION AGREEMENT AND PROVIDE A COPY OF THE EXECUTED
16 AGREEMENT TO THE PARTIES AND THEIR ATTORNEYS, IF ANY.

17 (15) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL PROVIDE
18 A REPORT OF RESULTS OF MEDIATION TO THE PARTIES AND THEIR ATTORNEYS,
19 IF ANY.

20 (16) IF A MORTGAGOR OR GRANTOR NOTIFIES THE PERSON
21 DESIGNATED UNDER PARAGRAPH (13) OF THIS SUBSECTION OF A CHANGE OF
22 FINANCIAL CIRCUMSTANCES, THE DESIGNEE SHALL:

23 (I) DETERMINE WHETHER THE CHANGE OF FINANCIAL
24 CIRCUMSTANCES SHALL ALTER THE MEDIATION AGREEMENT OR OUTCOME OF
25 THE PREFILE MEDIATION; AND

26 (II) NOTIFY THE MORTGAGOR OR GRANTOR OF THE
27 DETERMINATION BY FIRST-CLASS MAIL BEFORE ANY ADDITIONAL ACTION IS
28 TAKEN WITH RESPECT TO FORECLOSURE.

29 (17) (I) THE PARTIES TO THE PREFILE MEDIATION AGREEMENT
30 MAY EXECUTE AN AMENDED PREFILE MEDIATION AGREEMENT BASED ON A
31 MATERIAL CHANGE OF FINANCIAL CIRCUMSTANCES OF THE MORTGAGOR OR
32 GRANTOR.

1 **(ii) THE SECURED PARTY SHALL PROVIDE A COPY OF THE**
2 **EXECUTED AMENDED AGREEMENT TO THE MORTGAGOR OR GRANTOR.**

3 **(18) TO THE EXTENT THAT A NOTICE OF INTENT TO FORECLOSE**
4 **COMPLIES WITH THIS SECTION AND OTHERWISE IS VALID UNDER THE LAW, A**
5 **NOTICE OF INTENT TO FORECLOSE ISSUED WITH RESPECT TO A PROPERTY THAT**
6 **HAS BEEN THE SUBJECT OF PREFILE MEDIATION CONTINUES TO BE VALID FOR 1**
7 **YEAR AFTER THE DATE ON WHICH THE INITIAL PREFILE MEDIATION**
8 **AGREEMENT IS EXECUTED BY THE PARTIES.**

9 **(19) NOTHING IN THIS SUBSECTION SHALL PROHIBIT A SECURED**
10 **PARTY AND MORTGAGOR OR GRANTOR FROM ENGAGING IN LOSS MITIGATION BY**
11 **OTHER MEANS.**

12 **[(d)] (E) An order to docket or a complaint to foreclose a mortgage or deed of**
13 **trust on residential property shall:**

14 (1) Include:

15 (i) If applicable, the license number of:

16 1. The mortgage originator; and

17 2. The mortgage lender; and

18 (ii) An affidavit stating:

19 1. The date on which the default occurred and the
20 nature of the default; and

21 2. If applicable, that:

22 A. A notice of intent to foreclose was sent to the
23 mortgagor or grantor in accordance with subsection (c) of this section and the date on
24 which the notice was sent; and

25 B. At the time the notice of intent to foreclose was sent,
26 the contents of the notice of intent to foreclose were accurate; and

27 (2) Be accompanied by:

28 (i) The original or a certified copy of the mortgage or deed of
29 trust;

1 (ii) A statement of the debt remaining due and payable
2 supported by an affidavit of the plaintiff or the secured party or the agent or attorney
3 of the plaintiff or secured party;

4 (iii) A copy of the debt instrument accompanied by an affidavit
5 certifying ownership of the debt instrument;

6 (iv) If applicable, the original or a certified copy of the
7 assignment of the mortgage for purposes of foreclosure or the deed of appointment of a
8 substitute trustee;

9 (v) If any defendant is an individual, an affidavit that is in
10 compliance with § 521 of the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 et
11 seq.;

12 (vi) If applicable, a copy of the notice of intent to foreclose;

13 **(VII) IF THE SECURED PARTY AND MORTGAGOR OR GRANTOR**
14 **HAVE ELECTED TO PARTICIPATE IN PREFILE MEDIATION, THE REPORT OF THE**
15 **PREFILE MEDIATION ISSUED BY THE OFFICE OF ADMINISTRATIVE HEARINGS;**

16 **(VIII) IF THE SECURED PARTY AND THE MORTGAGOR OR**
17 **GRANTOR HAVE NOT ELECTED TO PARTICIPATE IN PREFILE MEDIATION, A**
18 **STATEMENT THAT THE PARTIES HAVE NOT ELECTED TO PARTICIPATE IN**
19 **PREFILE MEDIATION;**

20 [(vii)] (IX) In addition to any other filing fees required by law, a
21 filing fee in the amount of \$300; and

22 [(viii)] (X) 1. If the loss mitigation analysis has been
23 completed subject to subsection [(e)] (G) of this section, a final loss mitigation affidavit
24 in the form prescribed by regulation adopted by the Commissioner of Financial
25 Regulation; and

26 2. If the loss mitigation analysis has not been completed,
27 a preliminary loss mitigation affidavit in the form prescribed by regulation adopted by
28 the Commissioner of Financial Regulation.

29 [(d-1)] (F) Notwithstanding any other law, the court may not accept a lost
30 note affidavit in lieu of a copy of the debt instrument required under subsection
31 [(d)(2)(iii)] (E)(2)(III) of this section, unless the affidavit:

32 (1) Identifies the owner of the debt instrument and states from whom
33 and the date on which the owner acquired ownership;

34 (2) States why a copy of the debt instrument cannot be produced; and

1 (3) Describes the good faith efforts made to produce a copy of the debt
2 instrument.

3 **[(e)] (G)** Only for purposes of a final loss mitigation affidavit that is filed
4 with an order to docket or complaint to foreclose, a loss mitigation analysis is not
5 considered complete if the reason for the denial or determination of ineligibility is due
6 to the inability of the secured party to:

7 (1) Establish communication with the mortgagor or grantor; or

8 (2) Obtain all documentation and information necessary to conduct the
9 loss mitigation analysis.

10 **[(f)] (H)** (1) A copy of the order to docket or complaint to foreclose on
11 residential property and all other papers filed with it in the form and sequence as
12 prescribed by regulations adopted by the Commissioner of Financial Regulation,
13 accompanied by the documents required under paragraphs (2), (3), and (4) of this
14 subsection, shall be served on the mortgagor or grantor by:

15 (i) Personal delivery of the papers to the mortgagor or grantor;
16 or

17 (ii) Leaving the papers with a resident of suitable age and
18 discretion at the mortgagor's or grantor's dwelling house or usual place of abode.

19 (2) The service of documents under paragraph (1) of this subsection
20 shall be accompanied by a separate, clearly marked notice, in the form prescribed by
21 regulation adopted by the Commissioner of Financial Regulation, that states:

22 (i) The significance of the order to docket or a complaint to
23 foreclose; [and]

24 (ii) The options for the mortgagor or grantor to take, including
25 housing counseling SERVICES and financial assistance resources the mortgagor or
26 grantor may consult; AND

27 **(III) IN THE CASE OF A MORTGAGOR OR GRANTOR WHO HAS**
28 **PARTICIPATED IN PREFILE MEDIATION, THAT THE MORTGAGOR OR GRANTOR IS**
29 **NOT ENTITLED TO POSTFILE MEDIATION EXCEPT AS OTHERWISE PROVIDED IN**
30 **THE PREFILE MEDIATION AGREEMENT.**

31 (3) If the order to docket or complaint to foreclose is accompanied by a
32 preliminary loss mitigation affidavit, the service of documents under paragraph (1) of
33 this subsection shall be accompanied by a loss mitigation application form and any

1 other supporting documents as prescribed by regulation adopted by the Commissioner
2 of Financial Regulation.

3 (4) (I) [[If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF
4 THIS PARAGRAPH, IF the order to docket or complaint to foreclose is accompanied by
5 a final loss mitigation affidavit and concerns owner-occupied residential property, the
6 service of documents under paragraph (1) of this subsection shall be accompanied by a
7 request for [foreclosure] POSTFILE mediation form and any other supporting
8 documents as prescribed by regulation adopted by the Commissioner of Financial
9 Regulation.

10 (II) THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE
11 MAY EXCLUDE THE REQUEST FOR A POSTFILE MEDIATION FORM IF:

12 1. THE MORTGAGOR OR GRANTOR HAS
13 PARTICIPATED IN PREFILE MEDIATION AND THE PREFILE MEDIATION
14 AGREEMENT DOES NOT GIVE THE MORTGAGOR OR GRANTOR THE RIGHT TO
15 PARTICIPATE IN POSTFILE MEDIATION; OR

16 2. THE PROPERTY SUBJECT TO THE MORTGAGE OR
17 DEED OF TRUST IS NOT OWNER-OCCUPIED.

18 (5) If at least two good faith efforts to serve the mortgagor or grantor
19 under paragraph (1) of this subsection on different days have not succeeded, the
20 plaintiff may effect service by:

21 (i) Filing an affidavit with the court describing the good faith
22 efforts to serve the mortgagor or grantor; and

23 (ii) 1. Mailing a copy of all the documents required to be
24 served under paragraph (1) of this subsection by certified mail, return receipt
25 requested, and first-class mail to the mortgagor's or grantor's last known address and,
26 if different, to the address of the residential property subject to the mortgage or deed
27 of trust; and

28 2. Posting a copy of all the documents required to be
29 served under paragraph (1) of this subsection in a conspicuous place on the residential
30 property subject to the mortgage or deed of trust.

31 (6) The individual making service of documents under this subsection
32 shall file proof of service with the court in accordance with the Maryland Rules.

33 [(g)] (I) (1) If the order to docket or complaint to foreclose is
34 accompanied by a preliminary loss mitigation affidavit, the secured party, at least 30
35 days before the date of a foreclosure sale, shall:

1 (i) File with the court a final loss mitigation affidavit in the
 2 form prescribed by regulation adopted by the Commissioner of Financial Regulation;
 3 and

4 (ii) Send to the mortgagor or grantor by first class and by
 5 certified mail:

6 1. A copy of the final loss mitigation affidavit; and
 7 2. A request for [foreclosure] POSTFILE mediation form
 8 and supporting documents as provided under subsection [(f)(4)] (H)(4) of this section.

9 (2) A final loss mitigation affidavit shall be filed under this subsection
 10 no earlier than 28 days after the order to docket or complaint to foreclose is served on
 11 the mortgagor or grantor.

12 **[(h)] (J) (1) (i) THIS PARAGRAPH APPLIES TO A MORTGAGOR OR**
 13 **GRANTOR WHO:**

14 1. **HAS NOT PARTICIPATED IN PREFILE MEDIATION;**
 15 **OR**

16 2. **HAS PARTICIPATED IN PREFILE MEDIATION THAT**
 17 **RESULTED IN A PREFILE MEDIATION AGREEMENT THAT GIVES THE MORTGAGOR**
 18 **OR GRANTOR THE RIGHT TO PARTICIPATE IN POSTFILE MEDIATION.**

19 **(II) In a foreclosure action on owner-occupied residential**
 20 **property, the mortgagor or grantor may file with the court a completed request for**
 21 **[foreclosure] POSTFILE mediation not later than:**

22 1. If the final loss mitigation affidavit was delivered
 23 along with service of the copy of the order to docket or complaint to foreclose under
 24 subsection [(f)] (H) of this section, 25 days after that service on the mortgagor or
 25 grantor; or

26 2. If the final loss mitigation affidavit was mailed as
 27 provided in subsection [(g)] (I) of this section, 25 days after the mailing of the final
 28 loss mitigation affidavit.

29 **[(ii)] (III) 1. A request for [foreclosure] POSTFILE**
 30 **mediation shall be accompanied by a filing fee of \$50.**

31 2. The court may reduce or waive the filing fee under
 32 subsubparagraph 1 of this subparagraph if the mortgagor or grantor is eligible for a
 33 reduction or waiver under the Maryland Legal Services guidelines.

1 [(iii)] (IV) The mortgagor or grantor shall mail a copy of the
2 request for [foreclosure] POSTFILE mediation to the secured party's foreclosure
3 attorney.

4 (2) (i) The secured party may file a motion to strike the request for
5 [foreclosure] POSTFILE mediation in accordance with the Maryland Rules.

6 (ii) The motion to strike must be accompanied by an affidavit
7 that sets forth the reasons why [foreclosure] POSTFILE mediation is not appropriate.

8 (iii) The secured party shall mail a copy of the motion to strike
9 and the accompanying affidavit to the mortgagor or grantor.

10 (iv) There is a presumption that a mortgagor or grantor is
11 entitled to [foreclosure] POSTFILE mediation WITH RESPECT TO
12 OWNER-OCCUPIED RESIDENTIAL PROPERTY unless [good]:

13 1. GOOD cause is shown why [foreclosure] POSTFILE
14 mediation is not appropriate; OR

15 2. THE MORTGAGOR OR GRANTOR PARTICIPATED IN
16 PREFILE MEDIATION AND THE PREFILE MEDIATION AGREEMENT DOES NOT
17 GIVE THE MORTGAGOR OR GRANTOR THE RIGHT TO PARTICIPATE IN POSTFILE
18 MEDIATION.

19 (3) (i) The mortgagor or grantor may file a response to the motion
20 to strike within 15 days.

21 (ii) The mortgagor or grantor shall mail a copy of the response
22 to the foreclosure attorney.

23 (iii) If the court grants the motion to strike, the court shall
24 instruct the Office of Administrative Hearings to cancel any scheduled POSTFILE
25 mediation.

26 [(i)] (K) (1) Within 5 days after receipt of a request for [foreclosure]
27 POSTFILE mediation, the court shall transmit the request to the Office of
28 Administrative Hearings for scheduling.

29 (2) (i) Within 60 days after transmittal of the request for
30 foreclosure mediation, the Office of Administrative Hearings shall conduct a
31 foreclosure mediation.

32 (ii) For good cause, the Office of Administrative Hearings may
33 extend the time for completing the foreclosure mediation for a period not exceeding 30
34 days or, if all parties agree, for a longer period of time.

1 (3) The Office of Administrative Hearings shall send notice of the
2 scheduled foreclosure mediation to the foreclosure attorney, the secured party, and the
3 mortgagor or grantor.

4 (4) The notice from the Office of Administrative Hearings shall:

5 (i) Include instructions regarding the documents and
6 information, as required by regulations adopted by the Commissioner of Financial
7 Regulation, that must be provided by each party to the other party and to the
8 mediator; and

9 (ii) Require the information and documents to be provided no
10 later than 20 days before the scheduled date of the foreclosure mediation.

11 **[(j)] (L) (1) (I) BY REGULATION, THE COMMISSIONER OF**
12 **FINANCIAL REGULATION SHALL ESTABLISH A MEDIATION CHECKLIST THAT**
13 **DESCRIBES THE MATTERS THAT SHALL BE REVIEWED AND CONSIDERED IN A**
14 **POSTFILE MEDIATION.**

15 **(II) AT THE COMMENCEMENT OF A POSTFILE MEDIATION**
16 **SESSION, EACH PARTY SHALL REVIEW THE MEDIATION CHECKLIST.**

17 **(III) THE MEDIATOR SHALL MARK EACH ITEM ON THE**
18 **MEDIATION CHECKLIST AS THE ITEM IS ADDRESSED AT THE POSTFILE**
19 **MEDIATION SESSION.**

20 **(IV) AT THE CONCLUSION OF A POSTFILE MEDIATION**
21 **SESSION, EACH PARTY SHALL SIGN THE MEDIATION CHECKLIST.**

22 (2) At a foreclosure mediation:

23 (i) The mortgagor or grantor shall be present;

24 (ii) The mortgagor or grantor may be accompanied by a housing
25 counselor and may have legal representation;

26 (iii) The secured party, or a representative of the secured party,
27 shall be present; and

28 (iv) Any representative of the secured party must have the
29 authority to settle the matter or be able to readily contact a person with authority to
30 settle the matter.

1 [(2)] (3) At the foreclosure mediation, the parties and the mediator
2 shall address loss mitigation programs that may be applicable to the loan secured by
3 the mortgage or deed of trust that is the subject of the foreclosure action.

4 [(3)] (4) The Office of Administrative Hearings shall file a report
5 with the court that states the outcome of the request for foreclosure mediation within
6 the earlier of:

7 (i) 7 days after a foreclosure mediation is held; or

8 (ii) The end of the 60-day mediation period specified in
9 subsection [(i)(2)] (K)(2) of this section, plus any extension granted by the Office of
10 Administrative Hearings.

11 [(4)] (5) Except for a request for postponement or a failure to appear,
12 the rules of procedure for contested cases of the Office of Administrative Hearings do
13 not govern a foreclosure mediation conducted by the Office.

14 [(k)] (M) (1) If the parties do not reach an agreement at the [foreclosure]
15 POSTFILE mediation, or the 60-day mediation period expires without an extension
16 granted by the Office of Administrative Hearings, the foreclosure attorney may
17 schedule the foreclosure sale.

18 (2) (i) [Subject] IN THE CASE OF POSTFILE MEDIATION,
19 SUBJECT to subparagraphs (ii), (iii), and (iv) of this paragraph, the mortgagor or
20 grantor may file a motion to stay the foreclosure sale.

21 (ii) A motion to stay under this paragraph shall be filed within
22 15 days after:

23 1. The date the [foreclosure] POSTFILE mediation is
24 held; or

25 2. If no [foreclosure] POSTFILE mediation is held, the
26 date the Office of Administrative Hearings files its report with the court.

27 (iii) A motion to stay under this paragraph must allege specific
28 reasons why loss mitigation should have been granted.

29 (3) Nothing in this subtitle precludes the mortgagor or grantor from
30 pursuing any other remedy or legal defense available to the mortgagor or grantor.

31 [(l)] (N) A foreclosure sale of residential property may not occur until:

1 (1) If the residential property is not owner-occupied residential
2 property, at least 45 days after service of process is made under subsection [(f)] (H) of
3 this section;

4 (2) If the residential property is owner-occupied residential property
5 and foreclosure mediation is not held, the later of:

6 (i) At least 45 days after service of process that includes a final
7 loss mitigation affidavit made under subsection [(f)] (H) of this section; or

8 (ii) At least 30 days after a final loss mitigation affidavit is
9 mailed under subsection [(g)] (I) of this section; and

10 (3) If the residential property is owner-occupied residential property
11 and [foreclosure] POSTFILE mediation is requested, at least 15 days after:

12 (i) The date the [foreclosure] POSTFILE mediation is held; or

13 (ii) If no [foreclosure] POSTFILE mediation is held, the date the
14 Office of Administrative Hearings files its report with the court.

15 [(m)] (O) Notice of the time, place, and terms of a foreclosure sale shall be
16 published in a newspaper of general circulation in the county where the action is
17 pending at least once a week for 3 successive weeks, the first publication to be not less
18 than 15 days before the sale and the last publication to be not more than 1 week before
19 the sale.

20 [(n)] (P) (1) The mortgagor or grantor of residential property has the
21 right to cure the default by paying all past due payments, penalties, and fees and
22 reinstate the loan at any time up to 1 business day before the foreclosure sale occurs.

23 (2) The secured party or an authorized agent of the secured party
24 shall, on request, provide to the mortgagor or grantor or the mortgagor's or grantor's
25 attorney within a reasonable time the amount necessary to cure the default and
26 reinstate the loan and instructions for delivering the payment.

27 [(o)] (Q) An action for failure to comply with the provisions of this section
28 shall be brought within 3 years after the date of the order ratifying the sale.

29 [(p)] (R) Revenue collected from the filing fees required under subsections
30 [(d)(2)(vii)] (E)(2)(IX) and [(h)(1)(ii)] (J)(1)(III) of this section shall be distributed to
31 the Housing Counseling and Foreclosure Mediation Fund established under § 4-507 of
32 the Housing and Community Development Article.

1 (S) THE COMMISSIONER OF FINANCIAL REGULATION MAY ADOPT
2 ADDITIONAL REGULATIONS NECESSARY TO CARRY OUT THE REQUIREMENTS OF
3 THIS SECTION.

4 7-105.11.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) “CERTIFICATE OF PROPERTY UNFIT FOR HUMAN
8 HABITATION” MEANS:

9 (I) IN BALTIMORE CITY, A CERTIFICATE OF SUBSTANTIAL
10 REPAIR; OR

11 (II) A CERTIFICATE FOR RESIDENTIAL PROPERTY ISSUED
12 BY A UNIT OF A COUNTY OR MUNICIPAL CORPORATION INDICATING THAT THE
13 COUNTY OR MUNICIPAL CORPORATION HAS DETERMINED THAT THE
14 RESIDENTIAL PROPERTY IS UNFIT FOR HUMAN HABITATION.

15 (3) “CERTIFICATE OF VACANCY” MEANS A CERTIFICATE FOR A
16 RESIDENTIAL PROPERTY ISSUED BY A UNIT OF A COUNTY OR MUNICIPAL
17 CORPORATION INDICATING THAT THE RESIDENTIAL PROPERTY IS VACANT.

18 (B) THIS SECTION APPLIES ONLY TO A COUNTY OR MUNICIPAL
19 CORPORATION THAT ISSUES A CERTIFICATE OF VACANCY OR A CERTIFICATE OF
20 PROPERTY UNFIT FOR HUMAN HABITATION.

21 (C) IF A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY IS
22 IN DEFAULT, A PERSON WITH A SECURED INTEREST IN THE RESIDENTIAL
23 PROPERTY MAY REQUEST THAT A COUNTY OR MUNICIPAL CORPORATION ISSUE
24 A CERTIFICATE OF VACANCY OR A CERTIFICATE OF PROPERTY UNFIT FOR
25 HUMAN HABITATION.

26 (D) (1) THE COUNTY OR MUNICIPAL CORPORATION SHALL ISSUE TO A
27 SECURED PARTY A CERTIFICATE OF VACANCY FOR A RESIDENTIAL PROPERTY IF
28 THE COUNTY OR MUNICIPAL CORPORATION DETERMINES THAT THE
29 RESIDENTIAL PROPERTY IS VACANT.

30 (2) THE COUNTY OR MUNICIPAL CORPORATION SHALL ISSUE TO A
31 SECURED PARTY A CERTIFICATE OF PROPERTY UNFIT FOR HUMAN HABITATION
32 FOR A RESIDENTIAL PROPERTY IF THE COUNTY OR MUNICIPAL CORPORATION
33 DETERMINES IN ACCORDANCE WITH REQUIREMENTS OF LOCAL, COUNTY, OR

1 STATE HOUSING CODES, THAT THE RESIDENTIAL PROPERTY IS UNFIT FOR
2 HUMAN HABITATION.

3 (3) A CERTIFICATE OF VACANCY OR CERTIFICATE OF PROPERTY
4 UNFIT FOR HUMAN HABITATION ISSUED UNDER THIS SUBSECTION IS VALID FOR
5 60 DAYS AFTER THE DATE THE CERTIFICATE IS ISSUED.

6 (4) A COUNTY OR MUNICIPAL CORPORATION MAY CHARGE A FEE
7 NOT TO EXCEED \$100 TO A SECURED PARTY TO ISSUE A CERTIFICATE OF
8 VACANCY OR A CERTIFICATE OF PROPERTY UNFIT FOR HUMAN HABITATION.

9 (E) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, IF A
10 CERTIFICATE OF VACANCY OR CERTIFICATE OF PROPERTY UNFIT FOR HUMAN
11 HABITATION IS VALID AT THE TIME OF FILING AN ORDER TO DOCKET OR
12 COMPLAINT TO FORECLOSE, § 7-105.1 OF THIS SUBTITLE DOES NOT APPLY TO
13 AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON THE PROPERTY
14 FOR WHICH THE CERTIFICATE WAS ISSUED.

15 (F) (1) THE RECORD OWNER OR OCCUPANT OF A PROPERTY MAY
16 CHALLENGE THE CERTIFICATE OF VACANCY OR CERTIFICATE OF PROPERTY
17 UNFIT FOR HUMAN HABITATION UNDER THIS SECTION BY NOTIFYING THE
18 CIRCUIT COURT OF THE CHALLENGE.

19 (2) A SECURED PARTY FILING AN ORDER TO DOCKET OR
20 COMPLAINT TO FORECLOSE BASED ON A CERTIFICATE OF VACANCY OR A
21 CERTIFICATE OF PROPERTY UNFIT FOR HUMAN HABITATION UNDER THIS
22 SECTION SHALL SERVE THE FORECLOSURE DOCUMENTS IN ACCORDANCE WITH
23 § 7-105.1(H)(1) OF THIS SUBTITLE ALONG WITH A DESCRIPTION OF THE
24 PROCEDURE TO CHALLENGE THE CERTIFICATE AND THE FORM TO BE USED TO
25 MAKE THE CHALLENGE.

26 (3) IF A CHALLENGE UNDER PARAGRAPH (1) OF THIS
27 SUBSECTION IS UPHELD, THE SECURED PARTY SHALL COMPLY WITH THE
28 REQUIREMENTS OF § 7-105.1 OF THIS SUBTITLE.

29 (G) A COUNTY OR MUNICIPAL CORPORATION MAY ESTABLISH
30 PROCEDURES GOVERNING THE ISSUANCE OF A CERTIFICATE OF VACANCY OR
31 CERTIFICATE OF PROPERTY UNFIT FOR HUMAN HABITATION UNDER THIS
32 SECTION.

33 Article – Tax – General

34 10-208.

1 (a) In addition to the modification under § 10–207 of this subtitle, the
 2 amounts under this section are subtracted from the federal adjusted gross income of a
 3 resident to determine Maryland adjusted gross income.

4 **(R) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION**
 5 **INCLUDES ANY PAYMENT TO AN INDIVIDUAL MADE AS A RESULT OF A**
 6 **FORECLOSURE SETTLEMENT NEGOTIATED BY THE ATTORNEY GENERAL.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That an order to docket or
 8 complaint to foreclose served on a mortgagor or grantor before the effective date of
 9 regulations adopted by the Commissioner of Financial Regulation under Section 1 of
 10 this Act is in compliance with Maryland law if the order or complaint complies with §
 11 7–105.1 of the Real Property Article as it existed immediately before the effective date
 12 of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That the Commissioner of
 14 Financial Regulation shall develop the description of the procedure to challenge a
 15 certificate of vacancy or certificate of property unfit for human habitation and the form
 16 to be used to make the challenge that are required to be served under § 7–105.11(f)(2),
 17 as enacted by this Act.

18 ~~7–105.1.~~

19 ~~(a) (1) In this section the following words have the meanings indicated:~~

20 ~~(2) “Final loss mitigation affidavit” means an affidavit that:~~

21 ~~(i) Is made by a person authorized to act on behalf of a secured~~
 22 ~~party of a mortgage or deed of trust on owner-occupied residential property that is the~~
 23 ~~subject of a foreclosure action;~~

24 ~~(ii) Certifies the completion of the final determination of loss~~
 25 ~~mitigation analysis in connection with the mortgage or deed of trust; and~~

26 ~~(iii) If denied, provides an explanation for the denial of a loan~~
 27 ~~modification or other loss mitigation.~~

28 ~~(3) “Foreclosure mediation” means a conference at which the parties in~~
 29 ~~a foreclosure action, their attorneys, additional representatives of the parties, or a~~
 30 ~~combination of those persons appear before an impartial individual to discuss the~~
 31 ~~positions of the parties in an attempt to reach agreement on a loss mitigation program~~
 32 ~~for the mortgagor or grantor.~~

33 ~~(4) “Housing counseling services” means assistance provided to~~
 34 ~~mortgagors or grantors by nonprofit and governmental entities that are identified on a~~
 35 ~~list maintained by the Department of Housing and Community Development.~~

1 ~~(5) “Loss mitigation analysis” means an evaluation of the facts and~~
 2 ~~circumstances of a loan secured by owner-occupied residential property to determine:~~

3 ~~(i) Whether a mortgagor or grantor qualifies for a loan~~
 4 ~~modification; and~~

5 ~~(ii) If there will be no loan modification, whether any other loss~~
 6 ~~mitigation program may be made available to the mortgagor or grantor.~~

7 ~~(6) “Loss mitigation program” means an option in connection with a~~
 8 ~~loan secured by owner-occupied residential property that:~~

9 ~~(i) Avoids foreclosure through loan modification or other~~
 10 ~~changes to existing loan terms that are intended to allow the mortgagor or grantor to~~
 11 ~~stay in the property;~~

12 ~~(ii) Avoids foreclosure through a short sale, deed in lieu of~~
 13 ~~foreclosure, or other alternative that is intended to simplify the mortgagor’s or~~
 14 ~~grantor’s relinquishment of ownership of the property; or~~

15 ~~(iii) Lessens the harmful impact of foreclosure on the mortgagor~~
 16 ~~or grantor.~~

17 ~~(7) “Owner-occupied residential property” means residential property~~
 18 ~~in:~~

19 ~~(I) IN which at least one unit is occupied by an individual who:~~

20 ~~[(i)] 1. Has an ownership interest in the property; and~~

21 ~~[(ii)] 2. Uses the property as the individual’s primary~~
 22 ~~residence; AND~~

23 ~~(II) THAT HAS NOT BEEN VACANT FOR MORE THAN 30 DAYS.~~

24 ~~(8) “Preliminary loss mitigation affidavit” means an affidavit that:~~

25 ~~(i) Is made by a person authorized to act on behalf of a secured~~
 26 ~~party of a mortgage or deed of trust on owner-occupied residential property that is the~~
 27 ~~subject of a foreclosure action;~~

28 ~~(ii) Certifies the status of an incomplete loss mitigation analysis~~
 29 ~~in connection with the mortgage or deed of trust; and~~

30 ~~(iii) Includes reasons why the loss mitigation analysis is~~
 31 ~~incomplete.~~

1 ~~(9) "Residential property" means real property improved by four or~~
2 ~~fewer single family dwelling units that are designed principally and are intended for~~
3 ~~human habitation.~~

4 ~~(b) (1) Except as provided in paragraph (2) of this subsection, an action to~~
5 ~~foreclose a mortgage or deed of trust on residential property may not be filed until the~~
6 ~~later of:~~

7 ~~(i) 90 days after a default in a condition on which the mortgage~~
8 ~~or deed of trust provides that a sale may be made; or~~

9 ~~(ii) 45 days after the notice of intent to foreclose required under~~
10 ~~subsection (c) of this section is sent.~~

11 ~~(2) (i) The secured party may petition the circuit court for leave to~~
12 ~~immediately commence an action to foreclose the mortgage or deed of trust if:~~

13 ~~1. The loan secured by the mortgage or deed of trust was~~
14 ~~obtained by fraud or deception;~~

15 ~~2. No payments have ever been made on the loan~~
16 ~~secured by the mortgage or deed of trust;~~

17 ~~3. The property subject to the mortgage or deed of trust~~
18 ~~has been destroyed; or~~

19 ~~4. The default occurred after the stay has been lifted in a~~
20 ~~bankruptcy proceeding.~~

21 ~~(ii) The court may rule on the petition with or without a~~
22 ~~hearing.~~

23 ~~(iii) If the petition is granted, the action may be filed at any time~~
24 ~~after a default in a condition on which the mortgage or deed of trust provides that a~~
25 ~~sale may be made and the secured party need not send the written notice of intent to~~
26 ~~foreclose required under subsection (c) of this section.~~

27 ~~(c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least~~
28 ~~45 days before the filing of an action to foreclose a mortgage or deed of trust on~~
29 ~~residential property, the secured party shall send a written notice of intent to foreclose~~
30 ~~to the mortgagor or grantor and the record owner.~~

31 ~~(2) The notice of intent to foreclose shall be sent:~~

32 ~~(i) By certified mail, postage prepaid, return receipt requested,~~
33 ~~bearing a postmark from the United States Postal Service; and~~

- 1 (ii) ~~By first class mail.~~
- 2 (3) ~~A copy of the notice of intent to foreclose shall be sent to the~~
3 ~~Commissioner of Financial Regulation.~~
- 4 (4) ~~The notice of intent to foreclose shall:~~
- 5 (i) ~~Be in the form that the Commissioner of Financial~~
6 ~~Regulation prescribes by regulation; and~~
- 7 (ii) ~~Contain:~~
- 8 1. ~~The name and telephone number of:~~
- 9 A. ~~The secured party;~~
- 10 B. ~~The mortgage servicer, if applicable; and~~
- 11 C. ~~An agent of the secured party who is authorized to~~
12 ~~modify the terms of the mortgage loan;~~
- 13 2. ~~The name and license number of the Maryland~~
14 ~~mortgage lender and mortgage originator, if applicable;~~
- 15 3. ~~The amount required to cure the default and reinstate~~
16 ~~the loan, including all past due payments, penalties, and fees;~~
- 17 4. ~~A statement recommending that the mortgagor or~~
18 ~~grantor seek housing counseling services;~~
- 19 5. ~~The telephone number and the Internet address of~~
20 ~~nonprofit and government resources available to assist mortgagors and grantors facing~~
21 ~~foreclosure, as identified by the Commissioner of Financial Regulation;~~
- 22 6. ~~An explanation of the Maryland foreclosure process~~
23 ~~and time line, as prescribed by the Commissioner of Financial Regulation; and~~
- 24 7. ~~Any other information that the Commissioner of~~
25 ~~Financial Regulation requires by regulation.~~
- 26 (5) ~~For an owner occupied residential property, the notice of intent to~~
27 ~~foreclose shall be accompanied by:~~
- 28 (i) ~~A loss mitigation application:~~

1 ~~1. For loss mitigation programs that are applicable to~~
2 ~~the loan secured by the mortgage or deed of trust that is the subject of the foreclosure~~
3 ~~action; or~~

4 ~~2. If the secured party does not have its own loss~~
5 ~~mitigation application, in the form prescribed by the Commissioner of Financial~~
6 ~~Regulation;~~

7 ~~(ii) Instructions for completing the loss mitigation application~~
8 ~~and a telephone number to call to confirm receipt of the application;~~

9 ~~(iii) A description of the eligibility requirements for the loss~~
10 ~~mitigation programs offered by the secured party that may be applicable to the loan~~
11 ~~secured by the mortgage or deed of trust that is the subject of the foreclosure action;~~
12 ~~and~~

13 ~~(iv) An envelope addressed to the person responsible for~~
14 ~~conducting loss mitigation analysis on behalf of the secured party for the loan secured~~
15 ~~by the mortgage or deed of trust that is the subject of the foreclosure action.~~

16 ~~(6) For a property that is not an owner-occupied residential property,~~
17 ~~the notice of intent to foreclose shall be accompanied by:~~

18 ~~(i) A written notice of the determination that the property is~~
19 ~~not owner-occupied residential property; and~~

20 ~~(ii) A telephone number to call to contest that determination.~~

21 ~~(d) An order to docket or a complaint to foreclose a mortgage or deed of trust~~
22 ~~on residential property **OR A REQUEST BY A SECURED PARTY FOR FORECLOSURE**~~
23 ~~**MEDIATION** shall:~~

24 ~~(1) Include:~~

25 ~~(i) If applicable, the license number of:~~

26 ~~1. The mortgage originator; and~~

27 ~~2. The mortgage lender; and~~

28 ~~(ii) An affidavit stating:~~

29 ~~1. The date on which the default occurred and the~~
30 ~~nature of the default; and~~

31 ~~2. If applicable, that:~~

1 A. ~~A notice of intent to foreclose was sent to the~~
2 ~~mortgagor or grantor in accordance with subsection (c) of this section and the date on~~
3 ~~which the notice was sent; and~~

4 B. ~~At the time the notice of intent to foreclose was sent,~~
5 ~~the contents of the notice of intent to foreclose were accurate; and~~

6 ~~(2) Be accompanied by:~~

7 ~~(i) The original or a certified copy of the mortgage or deed of~~
8 ~~trust;~~

9 ~~(ii) A statement of the debt remaining due and payable~~
10 ~~supported by an affidavit of the plaintiff or the secured party or the agent or attorney~~
11 ~~of the plaintiff or secured party;~~

12 ~~(iii) A copy of the debt instrument accompanied by an affidavit~~
13 ~~certifying ownership of the debt instrument;~~

14 ~~(iv) If applicable, the original or a certified copy of the~~
15 ~~assignment of the mortgage for purposes of foreclosure or the deed of appointment of a~~
16 ~~substitute trustee;~~

17 ~~(v) If any defendant is an individual, an affidavit that is in~~
18 ~~compliance with § 521 of the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 et~~
19 ~~seq.;~~

20 ~~(vi) If applicable, a copy of the notice of intent to foreclose;~~

21 ~~(vii) In addition to any other filing fees required by law, a filing~~
22 ~~fee in the amount of \$300; and~~

23 ~~(viii) 1. If the loss mitigation analysis has been completed~~
24 ~~subject to subsection (c) of this section, a final loss mitigation affidavit in the form~~
25 ~~prescribed by regulation adopted by the Commissioner of Financial Regulation; and~~

26 ~~2. If the loss mitigation analysis has not been completed,~~
27 ~~a preliminary loss mitigation affidavit in the form prescribed by regulation adopted by~~
28 ~~the Commissioner of Financial Regulation.~~

29 ~~(d-1) Notwithstanding any other law, the court may not accept a lost note~~
30 ~~affidavit in lieu of a copy of the debt instrument required under subsection (d)(2)(iii) of~~
31 ~~this section, unless the affidavit:~~

32 ~~(1) Identifies the owner of the debt instrument and states from whom~~
33 ~~and the date on which the owner acquired ownership;~~

1 ~~(2) States why a copy of the debt instrument cannot be produced; and~~

2 ~~(3) Describes the good faith efforts made to produce a copy of the debt~~
3 ~~instrument.~~

4 ~~(e) Only for purposes of a final loss mitigation affidavit that is filed with an~~
5 ~~order to docket or complaint to foreclose, a loss mitigation analysis is not considered~~
6 ~~complete if the reason for the denial or determination of ineligibility is due to the~~
7 ~~inability of the secured party to:~~

8 ~~(1) Establish communication with the mortgagor or grantor; or~~

9 ~~(2) Obtain all documentation and information necessary to conduct the~~
10 ~~loss mitigation analysis.~~

11 ~~(f) (1) A copy of the order to docket or complaint to foreclose on~~
12 ~~residential property and all other papers filed with it in the form and sequence as~~
13 ~~prescribed by regulations adopted by the Commissioner of Financial Regulation,~~
14 ~~accompanied by the documents required under paragraphs (2), (3), and (4) of this~~
15 ~~subsection, shall be served on the mortgagor or grantor by:~~

16 ~~(i) Personal delivery of the papers to the mortgagor or grantor;~~
17 ~~or~~

18 ~~(ii) Leaving the papers with a resident of suitable age and~~
19 ~~discretion at the mortgagor's or grantor's dwelling house or usual place of abode.~~

20 ~~(2) The service of documents under paragraph (1) of this subsection~~
21 ~~shall be accompanied by a separate, clearly marked notice, in the form prescribed by~~
22 ~~regulation adopted by the Commissioner of Financial Regulation, that states:~~

23 ~~(i) The significance of the order to docket or a complaint to~~
24 ~~foreclose; and~~

25 ~~(ii) The options for the mortgagor or grantor to take, including~~
26 ~~housing counseling and financial assistance resources the mortgagor or grantor may~~
27 ~~consult.~~

28 ~~(3) If the order to docket or complaint to foreclose is accompanied by a~~
29 ~~preliminary loss mitigation affidavit, the service of documents under paragraph (1) of~~
30 ~~this subsection shall be accompanied by a loss mitigation application form and any~~
31 ~~other supporting documents as prescribed by regulation adopted by the Commissioner~~
32 ~~of Financial Regulation.~~

33 ~~(4) If the order to docket or complaint to foreclose is accompanied by a~~
34 ~~final loss mitigation affidavit and concerns owner-occupied residential property, the~~
35 ~~service of documents under paragraph (1) of this subsection shall be accompanied by a~~

1 ~~request for foreclosure mediation form and any other supporting documents as~~
2 ~~prescribed by regulation adopted by the Commissioner of Financial Regulation.~~

3 ~~(5) If at least two good faith efforts to serve the mortgagor or grantor~~
4 ~~under paragraph (1) of this subsection on different days have not succeeded, the~~
5 ~~plaintiff may effect service by:~~

6 ~~(i) Filing an affidavit with the court describing the good faith~~
7 ~~efforts to serve the mortgagor or grantor; and~~

8 ~~(ii) 1. Mailing a copy of all the documents required to be~~
9 ~~served under paragraph (1) of this subsection by certified mail, return receipt~~
10 ~~requested, and first class mail to the mortgagor's or grantor's last known address and,~~
11 ~~if different, to the address of the residential property subject to the mortgage or deed~~
12 ~~of trust; and~~

13 ~~2. Posting a copy of all the documents required to be~~
14 ~~served under paragraph (1) of this subsection in a conspicuous place on the residential~~
15 ~~property subject to the mortgage or deed of trust.~~

16 ~~(6) The individual making service of documents under this subsection~~
17 ~~shall file proof of service with the court in accordance with the Maryland Rules.~~

18 ~~(g) (1) If the order to docket or complaint to foreclose is accompanied by a~~
19 ~~preliminary loss mitigation affidavit, the secured party, at least 30 days before the~~
20 ~~date of a foreclosure sale, shall:~~

21 ~~(i) File with the court a final loss mitigation affidavit in the~~
22 ~~form prescribed by regulation adopted by the Commissioner of Financial Regulation;~~
23 ~~and~~

24 ~~(ii) Send to the mortgagor or grantor by first class and by~~
25 ~~certified mail:~~

26 ~~1. A copy of the final loss mitigation affidavit; and~~

27 ~~2. A request for foreclosure mediation form and~~
28 ~~supporting documents as provided under subsection (f)(4) of this section.~~

29 ~~(2) A final loss mitigation affidavit shall be filed under this subsection~~
30 ~~no earlier than 28 days after the order to docket or complaint to foreclose is served on~~
31 ~~the mortgagor or grantor.~~

32 ~~(h) (1) (i) In a foreclosure action on owner occupied residential~~
33 ~~property, the [mortgagor or grantor may] SECURED PARTY SHALL file with the court~~
34 ~~a completed request for foreclosure mediation [not later than]:~~

1 1. ~~¶ If the final loss mitigation affidavit was delivered~~
2 ~~along with service of the copy of the order to docket or complaint to foreclose under~~
3 ~~subsection (f) of this section, 25 days after that service on the mortgagor or grantor]~~
4 ~~**30 DAYS AFTER A DEFAULT IN A CONDITION ON WHICH A MORTGAGE OR DEED**~~
5 ~~**OF TRUST ON RESIDENTIAL PROPERTY PROVIDES THAT A SALE MAY BE MADE;** or~~

6 2. ~~¶ If the final loss mitigation affidavit was mailed as~~
7 ~~provided in subsection (g) of this section, 25 days after the mailing of the final loss~~
8 ~~mitigation affidavit] **AT THE TIME THE SECURED PARTY FILES AN ACTION TO**~~
9 ~~**FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY.**~~

10 (ii) ~~¶1.] A request for foreclosure mediation shall be~~
11 ~~accompanied by a filing fee of \$50.~~

12 ~~¶2. The court may reduce or waive the filing fee under~~
13 ~~subsubparagraph 1 of this subparagraph if the mortgagor or grantor is eligible for a~~
14 ~~reduction or waiver under the Maryland Legal Services guidelines.~~

15 (iii) ~~The mortgagor or grantor shall mail a copy of the request for~~
16 ~~foreclosure mediation to the secured party's foreclosure attorney.]~~

17 ~~¶(2) (i) The secured party may file a motion to strike the request for~~
18 ~~foreclosure mediation in accordance with the Maryland Rules.~~

19 (ii) ~~The motion to strike must be accompanied by an affidavit~~
20 ~~that sets forth the reasons why foreclosure mediation is not appropriate.~~

21 (iii) ~~The secured party shall mail a copy of the motion to strike~~
22 ~~and the accompanying affidavit to the mortgagor or grantor.~~

23 (iv) ~~There is a presumption that a mortgagor or grantor is~~
24 ~~entitled to foreclosure mediation unless good cause is shown why foreclosure~~
25 ~~mediation is not appropriate.~~

26 ~~¶(3) (i) The mortgagor or grantor may file a response to the motion~~
27 ~~to strike within 15 days.~~

28 (ii) ~~The mortgagor or grantor shall mail a copy of the response~~
29 ~~to the foreclosure attorney.~~

30 (iii) ~~If the court grants the motion to strike, the court shall~~
31 ~~instruct the Office of Administrative Hearings to cancel any scheduled mediation.]~~

32 ~~¶(2) **IF FORECLOSURE MEDIATION IS NOT CONDUCTED BEFORE A**~~
33 ~~**SECURED PARTY FILES AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF**~~

~~TRUST, THE COURT SHALL STAY THE FORECLOSURE PROCEEDINGS UNTIL THE CONCLUSION OF THE FORECLOSURE MEDIATION.~~

~~(3) THE MORTGAGOR OR GRANTOR MAY WAIVE THE RIGHT TO PARTICIPATE IN MEDIATION BY SUBMITTING A WRITTEN WAIVER TO THE COURT BEFORE THE FIRST MEDIATION SESSION.~~

~~(i) (1) Within 5 days after receipt of a request for foreclosure mediation, the court shall [transmit the request to the Office of Administrative Hearings for scheduling] APPOINT A MEDIATOR WHO IS:~~

~~(i) AN ADMINISTRATIVE LAW JUDGE WITH THE OFFICE OF ADMINISTRATIVE HEARINGS;~~

~~(ii) AN ATTORNEY ADMITTED TO THE BAR IN THE STATE;~~
OR

~~(iii) AN INDIVIDUAL AFFILIATED WITH A LOCAL OR NATIONAL MEDIATION ASSOCIATION WHOM THE COURT FINDS DEMONSTRATES SUFFICIENT KNOWLEDGE OF REAL PROPERTY LAW, MORTGAGE FINANCING, APPLICABLE FEDERAL, STATE, AND LOCAL LAW, AND INDIVIDUAL DEBT MANAGEMENT.~~

~~(2) (i) THE COST OF MEDIATION SHALL BE SPLIT JOINTLY BETWEEN THE SECURED PARTY AND THE MORTGAGOR OR GRANTOR.~~

~~(ii) A MEDIATOR THAT IS NOT EMPLOYED BY THE STATE SHALL BE PAID A MEDIATION FEE SET ANNUALLY BY THE OFFICE OF ADMINISTRATIVE HEARINGS.~~

~~[(2)] (3) (i) Within 60 days after [transmittal of] the SECURED PARTY FILES A request for foreclosure mediation, the [Office of Administrative Hearings] COURT APPOINTED MEDIATOR shall conduct a foreclosure mediation.~~

~~(ii) [For good cause, the Office of Administrative Hearings] IF THE SECURED PARTY FAILS TO SUBMIT THE INFORMATION REQUIRED UNDER PARAGRAPH (4) OF THIS SUBSECTION WITHIN 14 DAYS AFTER REQUESTING FORECLOSURE MEDIATION, THE COURT may extend the time for completing the foreclosure mediation [for a period not exceeding 30 days or, if all parties agree, for a longer period of time].~~

~~(iii) IF THE HOLDERS OF SUBORDINATE INTERESTS ARE NOT NOTIFIED OF THE MEDIATION PROCEEDINGS UNDER PARAGRAPH (4) OF THIS~~

~~1 SUBSECTION, THE COURT SHALL EXTEND THE TIME FOR COMPLETING THE
2 FORECLOSURE MEDIATION FOR A PERIOD NOT EXCEEDING 60 DAYS.~~

~~3 (4) (i) IMMEDIATELY AFTER ORDERING FORECLOSURE
4 MEDIATION, THE COURT SHALL SEND NOTICE TO THE MORTGAGOR OR
5 GRANTOR OF:~~

~~6 1. THE MORTGAGOR'S OR GRANTOR'S RIGHTS WITH
7 REGARD TO FORECLOSURE MEDIATION UNDER THIS SECTION, INCLUDING THE
8 RIGHT TO WAIVE MEDIATION UNDER SUBSECTION (H) OF THIS SECTION AND A
9 DESCRIPTION IN CLEAR AND CONSPICUOUS LANGUAGE OF THE CONSEQUENCES
10 OF WAIVING PARTICIPATION IN THE FORECLOSURE MEDIATION;~~

~~11 2. A LIST OF HOUSING COUNSELING SERVICES; AND~~

~~12 3. A BRIEF DESCRIPTION OF THE LAW GOVERNING
13 MORTGAGES AND REAL PROPERTY APPLICABLE IN THE MORTGAGOR'S OR
14 GRANTOR'S JURISDICTION.~~

~~15 [(3)] (ii) The [Office of Administrative Hearings]
16 COURT-APPOINTED MEDIATOR shall send notice of the scheduled foreclosure
17 mediation [to the]:~~

~~18 1. IMMEDIATELY TO THE foreclosure attorney, the
19 secured party, and the mortgagor or grantor; AND~~

~~20 2. WITHIN 14 DAYS AFTER THE MEDIATOR IS
21 APPOINTED, TO ANY HOLDER OF A SUBORDINATE INTEREST ON THE PROPERTY.~~

~~22 [(4)] (5) The notice from the [Office of Administrative Hearings]
23 COURT-APPOINTED MEDIATOR shall:~~

~~24 (i) Include instructions regarding the documents and
25 information, as required by regulations adopted by the Commissioner of Financial
26 Regulation, that must be provided by each party to the other party and to the
27 mediator, INCLUDING:~~

~~28 1. FOR THE SECURED PARTY, THE INFORMATION
29 REQUIRED TO BE FILED WITH THE COURT UNDER SUBSECTION (D) OF THIS
30 SECTION; AND~~

~~31 2. FOR THE HOLDERS OF SUBORDINATE INTERESTS,
32 THE ORIGINAL OR A CERTIFIED COPY OF THE LIEN INSTRUMENT AND A~~

1 ~~STATEMENT OF THE DEBT REMAINING DUE AND PAYABLE SUPPORTED BY AN~~
 2 ~~AFFIDAVIT OF THE HOLDER; and~~

3 (ii) ~~Require the information and documents to be provided:~~

4 ~~1. BY THE SECURED PARTY, no later than [20] 14 days~~
 5 ~~[before the scheduled date of] AFTER the foreclosure mediation IS ORDERED; AND~~

6 ~~2. BY THE HOLDERS OF SUBORDINATE INTERESTS,~~
 7 ~~NO LATER THAN 21 DAYS AFTER THE FORECLOSURE MEDIATION IS ORDERED.~~

8 (j) (1) ~~At a foreclosure mediation:~~

9 (i) ~~The mortgagor or grantor, OR A REPRESENTATIVE WITH~~
 10 ~~AUTHORITY TO ACT ON BEHALF OF THE MORTGAGOR OR GRANTOR, shall be~~
 11 ~~present;~~

12 (ii) ~~The mortgagor or grantor may be accompanied by a housing~~
 13 ~~counselor and may have legal representation;~~

14 (iii) ~~The secured party, or a representative of the secured party,~~
 15 ~~shall be present; and~~

16 (iv) ~~Any representative of the secured party must have the~~
 17 ~~authority to settle the matter or be able to readily contact a person with authority to~~
 18 ~~settle the matter.~~

19 (2) ~~WITH THE CONSENT OF BOTH THE MORTGAGOR OR GRANTOR~~
 20 ~~AND THE SECURED PARTY, A FORECLOSURE MEDIATION MAY BE CONDUCTED BY~~
 21 ~~TELECONFERENCE, VIDEOCONFERENCE, OR OTHER REMOTE MEETING~~
 22 ~~TECHNOLOGY.~~

23 (3) ~~THE COURT APPOINTED MEDIATOR MAY SCHEDULE MORE~~
 24 ~~THAN ONE MEDIATION SESSION.~~

25 ~~[(2)] (4) At the foreclosure mediation, the parties and the~~
 26 ~~COURT APPOINTED mediator shall address:~~

27 (i) ~~AT THE START OF THE FIRST MEETING, loss mitigation~~
 28 ~~programs that may be applicable to the loan secured by the mortgage or deed of trust~~
 29 ~~that is the subject of the foreclosure action;~~

30 (ii) ~~THE MORTGAGOR'S OR GRANTOR'S OPTIONS UNDER~~
 31 ~~FEDERAL AND STATE LAW, INCLUDING ASSISTANCE THROUGH FEDERAL AND~~
 32 ~~STATE PROGRAMS;~~

1 ~~(III) THE ECONOMIC CONSEQUENCES TO THE MORTGAGOR~~
 2 ~~OR GRANTOR OF EACH COURSE OF ACTION DISCUSSED UNDER ITEMS (I) AND (II)~~
 3 ~~OF THIS PARAGRAPH;~~

4 ~~(IV) THE MOST RECENT ASSESSED VALUE OF THE~~
 5 ~~PROPERTY, ACCORDING TO THE STATE DEPARTMENT OF ASSESSMENTS AND~~
 6 ~~TAXATION; AND~~

7 ~~(V) ANY SUBORDINATE INTERESTS IN THE PROPERTY AND~~
 8 ~~THE ECONOMIC CONSEQUENCES TO THE MORTGAGOR OR GRANTOR WITH~~
 9 ~~RESPECT TO THE SUBORDINATE INTERESTS OF ALTERING THE MORTGAGE OR~~
 10 ~~DEED OF TRUST ON THE PROPERTY, SELLING THE PROPERTY, OR ALLOWING~~
 11 ~~THE FORECLOSURE TO PROCEED.~~

12 ~~[(3)] (5) The [Office of Administrative Hearings]~~
 13 ~~COURT APPOINTED MEDIATOR shall file a report with the court that states the~~
 14 ~~outcome of the [request for] foreclosure mediation within the earlier of:~~

15 ~~(i) 7 days after a foreclosure mediation is held; or~~

16 ~~(ii) The end of the 60 day mediation period specified in~~
 17 ~~subsection [(i)(2)] (1)(3) of this section, plus any extension granted by the [Office of~~
 18 ~~Administrative Hearings] COURT OR THE COURT APPOINTED MEDIATOR.~~

19 ~~[(4)] (6) Except for a request for postponement or a failure to appear,~~
 20 ~~the rules of procedure for contested cases of the Office of Administrative Hearings do~~
 21 ~~not govern a foreclosure mediation conducted by the Office.~~

22 ~~(7) (I) THE SECURED PARTY AND THE MORTGAGOR OR~~
 23 ~~GRANTOR SHALL NEGOTIATE IN GOOD FAITH DURING THE FORECLOSURE~~
 24 ~~MEDIATION.~~

25 ~~(II) IF THE COURT APPOINTED MEDIATOR DETERMINES~~
 26 ~~THAT ANY PARTY IS NOT ACTING IN GOOD FAITH DURING THE FORECLOSURE~~
 27 ~~MEDIATION, THE COURT APPOINTED MEDIATOR MAY SUSPEND THE~~
 28 ~~FORECLOSURE MEDIATION PROCESS AND REFER THE MATTER TO THE COURT~~
 29 ~~TO APPOINT ANOTHER MEDIATOR WHO SHALL RESTART THE FORECLOSURE~~
 30 ~~MEDIATION WITHIN 2 WEEKS AFTER THE SUSPENSION.~~

31 ~~(k) (1) If the parties do not reach an agreement at the foreclosure~~
 32 ~~mediation, or the 60 day mediation period expires without an extension granted by~~
 33 ~~the [Office of Administrative Hearings] COURT OR THE COURT APPOINTED~~
 34 ~~MEDIATOR, the foreclosure attorney may schedule the foreclosure sale.~~

1 ~~(2) (i) Subject to subparagraphs (ii), (iii), and (iv) of this~~
2 ~~paragraph, the mortgagor or grantor may file a motion to stay the foreclosure sale.~~

3 ~~(ii) A motion to stay under this paragraph shall be filed within~~
4 ~~15 days after:~~

5 ~~1. The date the foreclosure mediation is held; or~~

6 ~~2. If no foreclosure mediation is held, the date the Office~~
7 ~~of Administrative Hearings files its report with the court.~~

8 ~~(iii) A motion to stay under this paragraph must allege specific~~
9 ~~reasons why loss mitigation should have been granted.~~

10 ~~(3) Nothing in this subtitle precludes the mortgagor or grantor from~~
11 ~~pursuing any other remedy or legal defense available to the mortgagor or grantor.~~

12 ~~(4) A foreclosure sale of residential property may not occur until:~~

13 ~~(1) If the residential property is not owner-occupied residential~~
14 ~~property, at least 45 days after service of process is made under subsection (f) of this~~
15 ~~section;~~

16 ~~(2) If the residential property is owner-occupied residential property~~
17 ~~and foreclosure mediation is not held, the later of:~~

18 ~~(i) At least 45 days after service of process that includes a final~~
19 ~~loss mitigation affidavit made under subsection (f) of this section; or~~

20 ~~(ii) At least 30 days after a final loss mitigation affidavit is~~
21 ~~mailed under subsection (g) of this section; and~~

22 ~~(3) If the residential property is owner-occupied residential property~~
23 ~~and foreclosure mediation is requested, at least 15 days after:~~

24 ~~(i) The date the foreclosure mediation is held; or~~

25 ~~(ii) If no foreclosure mediation is held, the date the Office of~~
26 ~~Administrative Hearings files its report with the court.~~

27 ~~(m) Notice of the time, place, and terms of a foreclosure sale shall be~~
28 ~~published in a newspaper of general circulation in the county where the action is~~
29 ~~pending at least once a week for 3 successive weeks, the first publication to be not less~~
30 ~~than 15 days before the sale and the last publication to be not more than 1 week before~~
31 ~~the sale.~~

~~(n) (1) The mortgagor or grantor of residential property has the right to cure the default by paying all past due payments, penalties, and fees and reinstate the loan at any time up to 1 business day before the foreclosure sale occurs.~~

~~(2) The secured party or an authorized agent of the secured party shall, on request, provide to the mortgagor or grantor or the mortgagor's or grantor's attorney within a reasonable time the amount necessary to cure the default and reinstate the loan and instructions for delivering the payment.~~

~~(o) An action for failure to comply with the provisions of this section shall be brought within 3 years after the date of the order ratifying the sale.~~

~~(p) Revenue collected from the filing fees required under subsections (d)(2)(vii) and (h)(1)(ii) of this section shall be distributed to the Housing Counseling and Foreclosure Mediation Fund established under § 4-507 of the Housing and Community Development Article.~~

~~14-126.~~

~~(D) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(ii) "REGISTRY" MEANS THE FORECLOSED PROPERTY REGISTRY ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION.~~

~~(iii) "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7-105.1 OF THIS ARTICLE.~~

~~(2) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL ESTABLISH AND MAINTAIN A FORECLOSED PROPERTY REGISTRY.~~

~~(3) (i) AFTER COMMENCEMENT OF AN ACTION TO FORECLOSE A LIEN ON RESIDENTIAL PROPERTY, A PERSON AUTHORIZED TO MAKE A SALE OF THE PROPERTY UNDER § 7-105.1 OF THIS ARTICLE SHALL REGISTER THE PROPERTY WITH THE REGISTRY.~~

~~(ii) A REGISTRATION UNDER THIS PARAGRAPH SHALL INCLUDE:~~

~~1. IDENTIFICATION OF THE PROPERTY BY STREET ADDRESS AND TAX ACCOUNT NUMBER; AND~~

~~2. INFORMATION ON WHETHER THE PROPERTY IS VACANT, IF KNOWN.~~

1 SECTION 4. AND BE IT FURTHER ENACTED, That § 10–208(r) of the Tax –
 2 General Article, as enacted by Section 1 of this Act, shall take effect July 1, 2012, and
 3 shall be applicable to all taxable years beginning after December 31, 2011.

4 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
 5 Section 4 of this Act, this Act shall take effect October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.